

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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PHILIP A. PARRINO,	:	
	:	ORDER
Plaintiff,	:	11-CV-3315 (JFB)(GRB)
	:	
– against –	:	
	:	
SUNGARD AVAILABILITY SERVICES,	:	
	:	
Defendant.	:	
-----X	:	

JOSEPH F. BIANCO, District Judge:

*Pro se* plaintiff Philip A. Parrino (“plaintiff”) filed a complaint against SunGard Availability Services (“defendant”) in the Nassau County Supreme Court on June 6, 2011. On July 11, 2011, defendant filed a Notice of Removal of the above-captioned action to this Court.

On August 17, 2011, defendant filed a motion to dismiss the complaint. By Order dated December 5, 2011, the Court referred the motion to dismiss to Magistrate Judge Brown for a Report and Recommendation. On February 16, 2012, Magistrate Judge Brown issued a Report and Recommendation, recommending that defendant’s motion to dismiss plaintiff’s complaint be granted, and extending plaintiff leave to file an amended complaint. By Order dated March 9, 2012, the Court adopted the Report and Recommendation in its entirety.

On March 28, 2012, plaintiff filed an amended complaint. On May 8, 2012, defendant filed a motion to dismiss the amended complaint. Plaintiff filed an opposition to defendant’s motion on May 17, 2012, and defendant filed a reply in further support of its motion on June 18, 2012. By Order dated August 6, 2012, the Court referred defendant’s motion to dismiss the amended complaint to Magistrate Judge Brown for a Report and Recommendation.

On February 27, 2013, Magistrate Judge Brown issued a Report and Recommendation (the “R&R”), recommending that defendant’s motion to dismiss be granted, and that plaintiff’s amended complaint be dismissed with prejudice. The R&R further instructed that any objections to the R&R be submitted within fourteen (14) days of service of the R&R. (*See* Report and Recommendation dated Feb. 27, 2013, at 10.) As indicated by the docket sheet, a copy of the R&R was mailed to plaintiff by Magistrate Judge Brown’s Chambers on February 27, 2013. (*See* ECF No. 29.) No objections have been filed to date, although the date for filing any objections has expired.

A district judge may accept, reject, or modify, in whole or in part, the findings and recommendations of the Magistrate Judge. *See DeLuca v. Lord*, 858 F. Supp. 1330, 1345 (S.D.N.Y. 1994); *Walker v. Hood*, 679 F. Supp. 372, 374 (S.D.N.Y. 1988). As to those portions of a report to which no “specific written objections” are made, the Court may accept the findings contained therein, as long as the factual and legal bases supporting the findings are not clearly erroneous. *See* Fed. R. Civ. P. 72(b); *Thomas v. Arn*, 474 U.S. 140, 149 (1985); *Greene v. WCI Holdings Corp.*, 956 F. Supp. 509, 513 (S.D.N.Y. 1997).

Having conducted a review of the full record and the applicable law, and having reviewed the R&R for clear error, the Court adopts the findings and recommendations contained in the well-reasoned and thorough R&R in their entirety. Even under a *de novo* standard, the Court adopts the R&R in its entirety. Accordingly, IT IS HEREBY ORDERED that defendant's motion to dismiss the amended complaint is granted. The Clerk of the Court shall enter judgment accordingly and close the case. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this Order would not be taken in good faith and, therefore, *in forma pauperis* status is denied for purposes of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

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JOSEPH F. BIANCO  
UNITED STATES DISTRICT JUDGE

Dated: March 18, 2013  
Central Islip, New York